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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,210	02/19/2002	Huaming Wang	GC561-3C1	3052
5100	7590	06/30/2004	EXAMINER	
GENENCOR INTERNATIONAL, INC. ATTENTION: LEGAL DEPARTMENT 925 PAGE MILL ROAD PALO ALTO, CA 94304			PAK, YONG D	
			ART UNIT	PAPER NUMBER
			1652	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/080,210	<b>Applicant(s)</b> WANG ET AL.	
	<b>Examiner</b> Yong D Pak	<b>Art Unit</b> 1652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/19/2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-50 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The preliminary amendment filed on February 19, 2002, amending claims 1-34 and adding claims 35-50, has been entered.

This application is a division of 09/468,578, now issued as U.S. Patent No. 6,399,329.

Claims 1-50 are pending.

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8 and 35-38, drawn to an oxidoreductase, classified in class 435, subclass 189.
- II. Claims 9-34 and 39-50, drawn to a polynucleotide encoding the oxidoreductase of Invention I, host cell comprising said polynucleotide, a method of producing said oxidoreductase and a method of producing said host cell, classified in class 435, subclass 189.

Applicants are required to elect ONE DNA sequence encoding an oxidoreductase and/or ONE oxidoreductase sequence. For example, applicants can elect Invention I with the oxidoreductase of SEQ ID NO:2 from *Stachybotrys chartarum*.

This is not an election of species. The proteins of Invention I and the polynucleotides of Invention II are independent chemical entities and require independent search in the patent and non-patent literature. The DNA sequences of

Art Unit: 1652

Inventions II are patentably distinct as encoding enzymes with different structures, functions, substrate specificities, and utilities. The proteins of Inventions I are patentably distinct as having different structures, functions, substrate specificities, and utilities.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are patentably distinct because a DNA and a protein are different compounds, each with its own chemical structure and function, and they have different utilities. The DNA molecules of invention II is not limited in use to the production of polypeptide of invention I and can be used as a hybridization probe, and protein of Invention I can be obtained by a materially different method such as by biochemical purification.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Application/Control Number: 10/080,210  
Art Unit: 1652

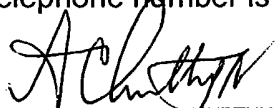
Page 4

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Pak whose telephone number is 571-272-0935. The examiner can normally be reached 6:30 A.M. to 5:00 P.M. Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Yong D. Pak  
Patent Examiner

  
PONNATHAPU ACHUTAMURTHY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600